

**Vulcan-Hart Corporation (St. Louis Division) and  
Stove, Furnace and Allied Appliance Workers  
International Union of North America, AFL-  
CIO, Local No. 110. Case 14-CA-12709**

August 25, 1981

**SUPPLEMENTAL DECISION AND  
ORDER**

**BY MEMBERS FANNING, JENKINS, AND  
ZIMMERMAN**

On April 17, 1980, the National Labor Relations Board issued a Decision and Order in this proceeding.<sup>1</sup> The Board there found that Respondent had violated Section 8(a)(4) and (1) of the Act by revoking longstanding permission to use the employee lunchroom for union meetings because the Union had filed unfair labor practice charges against it. As a consequence of this finding, the Board ordered Respondent, *inter alia*, to "[p]ermit its employees and the Union to use the lunchroom for union meetings in the same manner and to the same extent they were permitted to use the lunchroom for such meetings prior to June 22, 1978, and notify them that they have permission to do so."

Thereafter, the Board filed an application with the United States Court of Appeals for the Eighth Circuit to enforce its Order. On March 9, 1981, the court issued its opinion<sup>2</sup> in which it agreed with the finding of an 8(a)(4) and (1) violation and granted enforcement of the Board's Order subject to specific directions that the Board modify its Order to indicate that: (1) "[t]he order regarding use of the lunchroom is limited to such period as the union is the certified bargaining agent of the employees," (2) "[t]he order may be modified by the parties as a result of collective bargaining between this union and Vulcan-Hart," and (3) "the use of the lunchroom by the union may be withdrawn by Vulcan-Hart for any legitimate, nonpretextual reason which does not involve any element of antiunion animus."

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has accepted the court's remand and, recognizing the court's decision as the law of this case, we shall modify the original Order in accord with the court's directions.

<sup>1</sup> 248 NLRB 1197.

<sup>2</sup> *N.L.R.B. v. Vulcan-Hart Corporation (St. Louis Division)*, 642 F.2d 255.

**ORDER**

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Vulcan-Hart Corporation (St. Louis Division), Kirkwood, Missouri, its officers, agents, successors and assigns, shall take the action set forth in the Board's original Decision and Order of April 17, 1980 (reported at 248 NLRB 1197), as modified herein:

1. Substitute the following for paragraph 1(a):

"(a) Revoking its permission for its employees and the Union to use Respondent's lunchroom for union meetings because the Union has filed unfair labor practice charges against it."

2. Substitute the following for paragraph 2(a):

"(a) Permit its employees and the Union to use Respondent's lunchroom for union meetings in the same manner and to the same extent they were permitted to use the lunchroom for such meetings prior to June 22, 1978, unless one of the following events occurs:

"(1) The Union is no longer the duly recognized bargaining agent for said employees.

"(2) The use of the lunchroom is modified by the parties as a result of collective bargaining between the Union and Respondent.

"(3) The use of the lunchroom by the Union is withdrawn by Respondent for any legitimate, nonpretextual reason which does not involve any element of union animus."

3. Insert the following as paragraph 2(b) and re-letter the subsequent paragraphs accordingly:

"(b) Notify the Union that it has permission to use Respondent's lunchroom in the manner indicated above."

4. Substitute the attached notice for the notice ordered to be posted in the Board's original Decision and Order.

**APPENDIX**

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

WE WILL NOT revoke our permission for our employees and the Union to use the company lunchroom for union meetings because the Union has filed unfair labor practice charges against us.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their Section 7 rights.

WE WILL permit our employees and the Union to use the company lunchroom for union meetings in the same manner and to the same extent they were permitted to use the lunchroom for such meetings prior to June 22, 1978, unless one of the following occurs:

- (1) The Union is no longer the duly recognized bargaining agent for our employees.
- (2) The use of the lunchroom is modified by the parties as a result of collective bar-

gaining between the Union and Vulcan-Hart.

- (3) The use of the lunchroom by the Union is withdrawn by Vulcan-Hart for any legitimate, nonpretextual reason which does not involve any element of union animus.

WE WILL notify the Union that it has permission to use the lunchroom as indicated.

VULCAN-HART CORPORATION (ST.  
LOUIS DIVISION)